

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 7194 of 2005

Between:

S.S.V.Junior College, Sankarapuram, Kadapa, rep.by its
Correspondent Dr.B.Dwarakanath Swaroop,
S/o.Sri Gopalaswamy, R/o.R.S.Nagar,
Siddavattam, Kadapa Dist.

..... PETITIONER

AND

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- 1 Government of Andhra Pradesh, rep.by its
Principal Secretary, Higher Education Department,
Secretariat, Hyderabad.
- 2 Director of Intermediate Education, Govt.of A.P.,
Nampally, Hyderabad.
- 3 Regional Joint Director of Intermediate Education,
Kadapa Region, Kadapa.
- 4 Smt. Sheela Rasalind, Junior Lecturer in English,
Government Junior College, Rajampet, Kadapa Dist.
- 5 Smt. N.Aruna Kumari, Physical Director, Govt., Junior
College for Girls, Kadapa Town.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ order or direction particularly one in the nature of Mandamus declaring the proceedings in G.O.Rt.No.195, dt.17-03-05 as arbitrary, illegal and by

quashing the same direct implementing the directions contained in G.O.Rt.864 Higher Education (I.E.II) Department dated 22-11-2001 and further direct reimbursing the amounts spent by the petitioner Institution towards the salary of ad hoc employees during the interregnum period.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondents 1 to 3: GP FOR EDUCATION

The Court at the admission stage made the following :

ORDER:

This writ petition is filed by the petitioner aggrieved by the order passed in G.O.Rt.No.195, dated 17.3.2005 by the first respondent without giving any opportunity to the it to represent the matter by supplying a copy of the review petition, which is stated to have been filed on 6.10.2004, and even without giving sufficient time, as if there was so serious urgency for disposal of the said review petition.

According to the petitioner, two of the staff members, who were impleaded as respondents 4 and 5, were transferred from its institution, which was the subject matter of the appeal before the first respondent. After hearing both sides the first respondent passed orders on merits in G.O.Rt.No.864, dated 22.11.2001 setting aside the order of the Director of Higher Education wherein respondents 4 and 5 were transferred. As the said order was not implemented, the petitioner filed W.P.No.16873 of 2004 before this court and this court by order dated 21.9.2004 disposed of the said writ petition directing the respondents to implement the order passed in G.O.Rt.No.864 dated 22.11.2001. Thereafter, it is stated that the Director of Higher Education issued proceedings dated 29.9.2004 for implementation of the orders of the Government. But, however, as the said orders were not implemented by posting respondents 4 and 5 in the petitioner's institution, it moved contempt case in C.C.No.1504 of 2004 wherein notices were issued on 11.2.2005. It is only thereafter, the first respondent moved the matter by issuing notice to the petitioner on 11.3.2005 posting the review petition on 7.3.2005. It is stated that the petitioner was represented before the first respondent by its counsel on 17.3.2005 and sought for time apart from seeking supply of review petition copies. But, however, the first respondent neither supplied the copies of review petition nor granted time to contest the review petition, which was filed long after the period specified for filing of review petition under Section 91 of the A.P. Education Act, 1982. Thereafter, the first respondent passed orders annulling the earlier order dated 22.11.2001 without giving any reasons either for entertaining the review petition or for annulling the earlier orders. The first respondent also did not make any reference as to the period of limitation within which he can entertain a review petition. Therefore, the petitioner sought to set

aside the order not only on the ground of violation of principles of natural justice, but also on the ground that the impugned order was passed beyond the period of limitation without considering legal position.

The learned Government Pleader for Education however sought to sustain the order and at the same time represented that some more staff members have been shifted from the petitioner's institution, which is the subject matter of another writ petition, and which is directed to be listed for hearing next week, and therefore, sought for adjournment.

Heard learned counsel for the petitioner and learned Government Pleader for Education.

Prima facie, the impugned order was passed in a hasty and hurried manner, perhaps to avoid the proceedings of contempt instituted before this court. The material on record clearly shows that there was no reference as to the filing of the alleged review petition at any point of time till the notice issued on 11.3.2005. The grievance of the petitioner is that even a copy of the review petition was not served on it. Therefore, there is no justification in disposing of the review petition without giving proper opportunity to the petitioner to represent the matter, as it is clearly beyond the jurisdiction of the first respondent and as the review petition was filed beyond 90 days.

Under the above circumstances, the impugned order is set aside and the matter is restored to the file of the first respondent with a direction to supply a copy of the review petition to the petitioner and thereafter fix up a date for hearing, and after giving sufficient opportunity to both the parties dispose of the review petition within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is accordingly allowed at the admission stage.

S. Ananda Reddy, J.

15th July, 2005

js.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this the Friday the fifteenth day of July, Two thousand and five.

To

1 The Principal Secretary, Government of Andhra Pradesh,

Higher Education Department, Secretariat, Hyderabad.

2 Director of Intermediate Education, Govt. of A.P.,

Nampally, Hyderabad.

3 Regional Joint Director of Intermediate Education,

Kadapa Region, Kadapa.

4 Two CCs to G.P. for Education, High Court Buildings,

Hyderabad.

5 2 CD copies.